

Unapproved

Salem Planning and Zoning Commission
April 20, 2010

Present: Amato, R.
Bingham, D. - arrived at 8:34 pm and left at 8:52 pm
Buckley, K.
Chinatti, M. - Town Planner/ZEO
Fogarty, G., Alt.
McKenney, H. - left at 8:29 pm
Savalle, R.
Walter, G.

Absent: Nikirk, G.
Smith, V., Alt.

Guests: see attached.

CALL TO ORDER:

Chairman H. McKenney:

- Called the meeting to order at 7:00 pm,
- Stated that he would be leaving the meeting after the *PUBLIC HEARING* item on tonight's agenda; K. Buckley, vice chair, will assume the chair at that time,
- With the Commission's consent seated G. Fogarty for D. Bingham, and
- Introduced all members and staff present.

ADDITIONS TO THE AGENDA:

M/S/C (McKenney/Buckley) to add the following to tonight's agenda:

Under *NEW BUSINESS*:

- "3) Request to bond three (3) monuments for Lexington Hills Resubdivision (RS#09-11-01) at 615 Hartford Road"

Vote: approved unanimously.

PUBLIC HEARINGS:

- 4) Kobyluck Brothers, LLC - Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road and possible action (con't from 3/16/10)

M. Chinatti, Town Planner/ZEO:

Nine (9) additional exhibits have been received:

[Exhibit UU] Letter of 3/16/10 from S. Byrne, PZC Land Use Attorney, concerning the renewal of the Special Permit and Site Plan for the Kobyluck Sand & Gravel Rattlesnake Ledge Quarry. (Two [2] pages) (This letter is the signed original of [Exhibit SS].

[Exhibit VV] Seismograph readings and Blasting Logs from Austin Powder Company. (Eighty-eight [88] pages.)

[Exhibit WW] Email 3/25/10 from Pat Young to M. Chinatti, Town Planner/ZEO/WEO, regarding Air Compliance relating to crushing/processing. (Two [2] pages)

[Exhibit XX] Email 3/26/10 to S. Byrne from M. Chinatti in regard to Various Questions. (One [1] page)

[Exhibit YY] Letter 4/18/10 from S. Byrne to M. Chinatti in regard to response to *[Exhibit XX]*. (Three [3] pages).

[Exhibit ZZ] Email 4/19/08 from J. Dillon, Town Engineer, to H. McKenney, in regard to a revised Restoration Bond estimate. (Three [3] pages)

[Exhibit AAA] Email 4/20/10 from D. Seresin, DEP, to M. Chinatti, regarding the Kobyluck General Permit being reissued. (Two[2] pages)

At this time, H. McKenney reviewed the Salem Planning and Zoning Commission's Public Hearing Procedures.

M. Kobyluck, Kobyluck Brothers, LLC, appeared before the Commission:

As requested by the Commission at last month's meeting, he addressed the *FINDINGS* in Section 11.4 of the Salem Zoning Regulations as to why his Special Exception Renewal application for the quarry satisfies the conditions of this section.

(See *[Exhibit BBB]* attached to the filed copy of these minutes. Three [3] pages)

Requested copies of all exhibits that have been submitted.

Regarding *[Exhibit ZZ]*, a Draft of the Opinion of Probable Construction Costs (OPCC) for Restoration Bond amounts for Phase I of the Kobyluck Quarry, he feels the quantity of subsoil and fill needed is outrageous. It has already been established, through his engineer, that there is sufficient material on the site. He will not be deviating from the approved plan and no new activity has been proposed.

Attorney S. Lucas, attorney for Kobyluck Brothers, LLC:

In regard to Section 11.4 of the Zoning Regulations, once these conditions were found to be satisfied on the 2002 application plan for the site by previous PZC members, the new owner (Kobyluck Brothers) buys that use and all the conditions that were approved for that use at that time.

Public Comment:

There was no *Public Comment* at this time.

J. Dillon, PE, Nathan Jacobsen & Associates, Town Engineers:

In regard to the Restoration Bond amount he prepared for the quantity of subsoil and fill that will be needed, it is only a draft. He used the cross-section plan from February, which was prepared only as an exercise by CLA for the Commission. With a more complete set of drawings, it may be found that a lesser amount will be needed.

M. Kobyluck:

Again asserted his conviction as to why he believes that there is sufficient material stockpiled on the site now for restoration.

The chairman requested that Mr. Kobyluck place his opinion as to this matter in writing and submit it to the Commission, as this may help the members to understand his position.

Public Comment:

- D. Alphonso, 295 Rattlesnake Ledge Road - she has just been informed that at the 3/16/10 PZC meeting it was stated by the builder of the two new homes across from the quarry that they both had radon in their water. Do all the other residents in the area have to worry that we have radon in our water also?

J. Dillon, PE, Town Engineer:

There has been over excavation on the site; a revised Restoration Plan is needed.

Believes that the site can be stabilized, but it will look different than the 2002 approved plan.

M. Chinatti, Town Planner/ZEO:

Agrees that a revised Restoration Plan will be required.

Mr. Kobyluck did provide, with his Special Exception application, an unsigned check in the amount of \$5,000 for an as-yet undetermined amount for his Maintenance and Inspection Fee.

She has calculated what the fee should be. He will need to provide a check in the amount of \$2,332.

Mr. Kobyluck agreed to provide the check.

Public Comment:

- N. Dytko, 279 Rattlesnake Ledge Road - if Mr. Kobyluck has over cut as to his present plan, how is it that he gets to submit another plan for renewal? Is it a common practice for the PZC to accept unsigned checks?

M. Kobyluck:

He plans to meet the grades as shown on the 2002 plan when he is done; he has never over excavated.

The chairman requested D. Bourdeau, Jr., Fire Marshal, to provide the Commission with a written evaluation of the seismographic and noise readings submitted by Austin Powder Company [Exhibit VV].

H. McKenney:

The public hearing must be closed at the 4/27/10 PZC meeting and the Commission must consider the following for their deliberations:

- If a revised Restoration Plan is required;
- The bond amount required for the restoration work; and
- Is the company in violation of the approved site plan at the present time?

M/S/C (Fogarty/Savalle) to continue the public hearing for Kobyluck Brothers, LLC - Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road to the April 27, 2010 Salem Planning and Zoning Commission Regular Meeting. Vote: approved unanimously

The Commission took a five (5) minute recess.

H. McKenney left the meeting at 8:29 pm.

D. Bingham arrived at the meeting at 8:34 pm.

G. Fogarty stepped down.

D. Bingham assumed his seat.

K. Buckley assumed the chair of the meeting.

PETITIONERS:

- 1) **Gardner Lake Vol. Fire Co. - CGS §8-24 Referral for an addition to the building at 429 Old Colchester Road**

J. Savalle, GLVFC chief, appeared:

Requesting PZC support of the concept of this addition (43' x 12') to the firehouse for this municipal project.

At this time, it was the consensus of the Commission to seat G. Fogarty for H. McKenney.

One truck is being parked outside; it needs to be parked inside for security reasons.

The addition will not be changing the footprint of the building; the building will be squared off at the rear of the engine bay.

After review of the plan, the Commission took the following action:

M/S/C (Bingham/Savalle) to support the concept of the expansion of the Gardner Lake Fire House as being consistent with the Salem Plan of Conservation and Development and the Salem Municipal Land Use Plan. Vote: For approval - Amato, Bingham, Buckley, Fogarty, and Savalle. For denial - no one. Abstaining - Walter.

MOTION CARRIED.

PUBLIC COMMENTS:

There were no *PUBLIC COMMENTS*.

OLD BUSINESS:

- 1) **Mantis, LLC (Winalski) - Site Plan Modification (SPM#09-12-01) to relocate two (2) previously approved 50' x 30' cold frame greenhouses and add an 80' x 45' x 32' storage building at 595 Norwich Road (Route 82)**

No one appeared for this application.

M. Chinatti, Town Planner/ZEO:

Informed the Commission that the applicant's engineer had called her the day after the last PZC meeting and said that the application was being withdrawn.

There has been no formal letter of withdrawal received as of this date.

A decision must be made at tonight's meeting.

M/S/C (Amato/Savalle) to deny, without prejudice, the Mantis, LLC (Winalski) Site Plan Modification (SPM#09-12-01) to relocate two (2) previously approved 50' x 30' cold frame greenhouses and add an 80' x 45' x 32' storage building at 595 Hartford Road (Route 82). Vote: approved unanimously.

D. Bingham recused himself and left the meeting.

NEW BUSINESS:

- 1) **Salem Land Trust - Request for a letter of support for a DEP Open Space and Watershed Acquisition Grant application for the purchase of 750 Gungy Hartford Road**

M. Chinatti, Town Planner/ZEO:

The Salem Land Trust is requesting PZC support for an application for a state grant to purchase the Wheaton property on the east side of Route 85 (750 Hartford Road) at the Colchester/Salem town line.

L. Schroeder, representative for the Salem Land Trust, appeared:

Read memo of 4/20/10 from the Salem Land Trust to the PZC (*see* attached to the filed copy of these minutes) in regard to their grant application.

The Salem Inland Wetlands and Conservation Commission approved a letter of support at their last meeting.

There will be public access to the property, as there is for all Salem Land Trust properties.

M/S/C (Buckley/Walter) to adopt the following Resolution:

WHEREAS the Salem Land Trust has entered into negotiations with the heirs of the Wilfred E. Wheaton Estate, represented by their attorney, William Bowles Esq. for the purpose of preserving 19.6 acres of undeveloped land in the Eightmile River watershed for the purpose of natural resource protection of the watershed, and

WHEREAS the Salem Land Trust is applying to the State of Connecticut under the Open Space and Watershed Land Acquisition Grant Program for a matching grant to enable the acquisition of the parcel of land owned by the Wilfred E. Wheaton Estate for Open Space preservation, and

WHEREAS the Town of Salem Planning and Zoning Commission has been charged with the responsibility of making recommendations for appropriate open space acquisition, and

WHEREAS the Wheaton parcel is part of a wildlife corridor and large forested block of outstanding natural resources, which contains three permanently preserved properties, the Ahnert Preserve, Cunningham Farm and Zemko Sawmill Preserve, and which will be enhanced by the addition of this parcel as undeveloped open space, and

WHEREAS protection of this parcel as open space is consistent with the Salem Plan of Conservation and Development, and meets the guidelines that are contained in the Salem Open Space Plan for parcels that should have a high priority for open space acquisition, and

WHEREAS the Eightmile River has received federal recognition as a Wild and Scenic River because of outstanding resource values exemplified by and enhanced by this parcel,

THEREFORE BE IT RESOLVED that the Town of Salem Planning and Zoning Commission hereby supports the application by the Salem Land Trust for the Open Space and Watershed Land Acquisition matching funds from the State of Connecticut, to be granted to the Salem Land Trust, for the purchase of the parcel at 750 Hartford Road, Salem, Connecticut, to be granted to the Salem Land Trust, for the purchase of the parcel at 750 Hartford Road, Salem, Connecticut presently owned by the Estate of Wilfred E. Wheaton.

and approve the Salem Land Trust's request for a letter of support for a DEP Open Space and Watershed Acquisition Grant application for the purchase of 750 Hartford Road. Vote: approved unanimously.

2) The Nature Conservancy - Request for a letter of support for a DEP Open Space and Watershed Acquisition Grant application for the purchase of a Conservation Easement for property at 123 Gungy Road

No one appeared for this request.

M. Chinatti, Town Planner/ZEO, stated that she would address this matter for The Nature Conservancy, but since Mr. Bennett has been waiting and is here for *3) Request to bond for monuments*, suggested that the Commission hear the next item prior to this one.

It was the Commission's consensus to move item *3) Request to bond for three (3) monuments for the Renz application RS#09-11-01 Lexington Trail Resubdivision at 615 Hartford Road* to be heard at this time.

3) Request to bond for three (3) monuments for the Renz application RS#09-11-01 , Lexington Trail Resubdivision, at 615 Hartford Road

M. Bennett, PE, Bennett & Smilas Engineering, appeared:

Submitted plans showing all pins and monuments, with the exception of three (3), have been set on the site.

The bonding is required for these three monuments because the common driveway will be constructed from the parcel to the road, the removal of a stonewall on Route 85 must take place, and they want to construct the road last so as not to damage it with heavy equipment.

M. Chinatti, Town Planner/ZEO:

The bonding amount for the monuments was determined by the Town Engineer.

M/S/C (Buckley/Walter) to approve bonding in the amount of \$633 for the setting of three (3) monuments at the front corners of Lots #1, #2, and #3 as shown on map entitled

RECORD SUBDIVISION MAP LEXINGTON TRAIL SUBDIVISION LAND N/F RONALD & DONNA RENZ 615 HARTFORD ROAD (CONN ROUTE 85) SALEM, CONNECTICUT, SCALE: 1"=100', DATED AUGUST 18, 2008 AND REVISED LAST 4/19/10. Vote: approved unanimously.

2) The Nature Conservancy - Request for a letter of support for a DEP Open Space and Watershed Acquisition Grant application for the purchase of a Conservation Easement for property at 123 Gungy Road

M. Chinatti, Town Planner/ZEO:

This grant program is the same grant as the Salem Land Trust is requesting a letter of support for their application this evening.

The Nature Conservancy is not purchasing the property; they just wish to purchase a conservation easement over the 118 acres at 123 Gungy Road.

The property is listed on the Map of Areas of Interest in the Open Space Plan, is in the Eightmile River Watershed, and is a wildlife corridor. There are also a number of vernal pools on the property.

There will be public access.

This request is for a letter of support for their application to the DEP for the grant.

M/S/C (Fogarty/Savalle) that the Salem Planning and Zoning Commission will send a letter in support of the Nature Conservancy's application for a DEP Open Space and Watershed Acquisition Grant for the purchase of a Conservation Easement for property at 123 Gungy Road. Vote: approved unanimously.

ENFORCEMENT OFFICER'S REPORT/INLAND WETLANDS AND CONSERVATION COMMISSION REPORT: (See attached to the filed copy of these minutes.)

M. Chinatti, Town Planner/ZEO/WEO, reviewed her report as each item on the agenda was heard and added the following:

- 1 New London Road (Salem Town Center) - temporary signs have been removed and the removal of the trash/debris in the wetlands, for which a wetlands violation was issued to the owner, is being taken care of.
- Revised FEMA maps - the date for the hearing has been changed from May 25th to October 26th.

APPROVAL OF MINUTES OF PREVIOUS MEETING(S):

- 1) **March 16, 2010 - Regular Meeting**
- 2) **March 23, 2010 - Regular Meeting**
- 3) **April 13, 2010 - Special Meeting Site Walk**

M/S/C (Fogarty/Savalle) to approve the March 16, 2010, March 23, 2010 Regular Meeting minutes and the April 13, 2010 Special Meeting Site Walk minutes of the Salem Planning and Zoning Commission as presented:

Votes:

March 16, 2010: Approved unanimously

March 23, 2010: For approval - Amato, Buckley, and Savalle. For denial - no one. Abstentions - Fogarty and Walter.

MOTION CARRIED

April 13, 2010: No approval was required.

PLUS DELTAS:

Commission review of the positive aspects and areas for improvement in regard to the conduct of tonight's meeting.

CORRESPONDENCE:

- Information in regard to change in date for revised FEMA map hearing.
- Resignation of Gerald Nikirk from the Salem Planning and Zoning Commission.

M/S/C (Buckley/Walter) to accept, with regret and with thanks for his service, the resignation of Gerald Nikirk as a Regular Member of the Salem Planning and Zoning Commission. Vote: approved unanimously

- Workshop notices.

ADJOURNMENT:

M/S/C (Buckley/Savalle) to adjourn the meeting at 9:40 pm. Vote: approved unanimously.

Doris McTigue, Administrative Assistant/ Recording Secretary